



Docket No.: 1317.1068

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Chong-Mok PARK

Serial No. 09/679,069

Group Art Unit: 2621

Confirmation No. 7738

Filed: October 5, 2000

Examiner: Jamie J. VENT

For: VIDEO STREAM PROCESSING METHOD FOR TIME-DELAYED VIEWING

PETITION FROM REFUSAL TO WITHDRAW FINALITY

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450
MAIL STOP PETITION

Dear Sir:

Applicants hereby petition the Commissioner to direct the Primary Examiner of Art Unit 2621 to withdraw the finality of the outstanding Final Office Action mailed August 5, 2008. Applicants filed a Response After Final Under 37 C.F.R. § 1.116, on November 5, 2008, setting forth the Request to withdraw finality of the outstanding Final Office Action, and the Examiner refused to withdraw the finality, in an Advisory Action mailed December 1, 2008. A Petition for a one-month extension of time, together with the requisite fee for same, is submitted herewith, thereby extending the period for response to December 5, 2008.

REMARKS

In the Advisory Action mailed December 1, 2008, the Examiner sets forth new grounds of rejection, in addressing Applicant's arguments on pages 17-18, that the cited art of record fails to describe or suggest at least the features of claims 9 and 12, as detailed below.

On page 17, in the second through fourth full paragraphs of the Response After Final Under 37 C.F.R. § 1.116, filed on November 5, 2008, Applicants set forth that the rejection against claim 9 was improper for failing to specifically identify and provide a citation within the cited art which describes or suggests the features of claim 9 including "assigning free blocks nearest to the recorded free blocks as circular buffer blocks."

As these features of claim 9 were not specifically identified in the rejection set forth in the Final Office Action, and therefore, no citation within the cited art provided in the substance of the rejection, the new citation to Aoki as describing these features, provided in the Advisory Action, constitutes a new ground of rejection, not set forth in a non-final Office Action.

Further, Applicants note that in the substance of the new grounds of rejection set forth in the Advisory Action under item 4, a conclusion that Aoki describes "The reproduction of free blocks are provided to the nearest recorded and reproduced blocks," is made, without any specific citation within Aoki to support such a conclusion.

In addition to the new ground of rejection set forth against claim 9, the Advisory Action sets forth a new ground of rejection against claim 12.

On page 18, under the second full paragraph of the Response After Final Under 37 C.F.R. § 1.116, filed on November 5, 2008, Applicants set forth that the rejection against claim 12 was improper for failing to specifically identify and provide a citation within the cited art which describes or suggests the features of claim 12 including "when a reproduction mode is selected together with the time-delayed viewing mode."

As these features of claim 12 were not specifically identified in the rejection set forth in the Final Office Action, and therefore, no citation within the cited art provided in the substance of the rejection, the new citation to Aoki as describing these features, provided in the Advisory Action, constitutes a new ground of rejection, not set forth in a non-final Office Action.

Therefore, as set forth above, because the Advisory Action sets forth new grounds of rejection, and for the first time, specifically identifies and provides a citation within the cited art as describing all of the features of at least claims 9 and 12, Applicants submit that the Final Office Action mailed August 8, 2008, was incomplete, and further, that the Examiner's failure to withdraw the finality of same was improper.

Accordingly, the direction of the Examiner to withdraw finality of the Office Action mailed August 8, 2008, and issuance of a new non-final Office Action is respectfully requested.

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If there are any additional fees associated with filing of this Petition, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

Date: 12/15/2008

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